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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,322	03/16/2004	Billy H. Brenton	BRER.01US01	3739

27479 7590 11/21/2006

COCHRAN FREUND & YOUNG LLC
2026 CARIBOU DR
SUITE 201
FORT COLLINS, CO 80525

EXAMINER

NGUYEN, PHONG H

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,322

Applicant(s)

BRENTON, BILLY H.

Examiner

Phong H. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Gauvry (4,742,617).

Gauvry teaches a scissors comprising a first shaft, a second shaft, a flexible pin 36, an adjustable thumb ringlet 30 and a second pin 22. See Fig. 1-5.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauvry (4,742,617).

Gauvry shows the claimed invention except it is silent about the material the pin.

To select a well known material such as plastic for the pin would have been obvious to one having ordinary skill in the art, since it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

5. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauvry (4,742,617) in view of Brenton et al. (5,125,159), hereinafter Patent '159.

Gauvry shows the claimed invention except it lacks a means for adjusting the force between opposing cutting portions of the scissors.

Patent '159 shows a pair of shears comprising a means 30 for adjusting the tension of the shear blades. See Fig. 1.

It would have been obvious to one skilled in the art to further modify Gauvry by providing the scissors with a force adjusting means to facilitate adjusting the ride of the blades as taught by Brenton '159.

6. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gauvry (4,742,617) in view of Brenton et al. (5,469,624), hereinafter Brenton.

Gauvry shows the claimed invention except it lacks a finger stabilizer.

Brenton shows a pair of scissors comprising a finger stabilizer disposed in the vicinity of a finger ringlet (26; see Fig. 1a).

It would have been obvious to one skilled in the art to modify Gauvry by providing the finger ringlet with a finger stabilizer for supporting a user's finger when in use as taught by Brenton.

7. Claims 1, 3, 5, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (590,330) in view of Brenton et al. (5,469,624), hereinafter Brenton.

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Nolen teaches a scissors comprising a first shaft, a second shaft, a pin (a3), an adjustable thumb ringlet 30 and a second pin 22. See Figs. 1-6.

Nolen does not teach the pin (a3) being flexible. Brenton teaches a flexible pin 36 so that a thumb ringlet 18 can be replaced easily. Therefore, it would have been obvious to one skilled in the art to incorporate the flexible pin of Brenton into the pin of Nolen for easily changing the thumb ringlet of Nolen.

Response to Arguments

8. Applicant's arguments filed 08/29/2006 have been fully considered but they are not persuasive.

The Applicant's argument with respect to the definition of the word "pin" is not persuasive. The definition of the word "pin" is not applicable to Gauvry since the Applicant's claimed pin does not meet that definition. The Applicant's pin does not have a pointed end and a cylindrical shape. Furthermore, the thump loop of Gauvry can rotate 360 degrees but not 45 degrees as asserted by the Applicant.

The Applicant argues that the Gauvry's pin is not inserted through the hole in the thumb ringlet. This argument is not persuasive. Only a portion of the claimed pin is inserted through the thumb ringlet but not the entire length of the claimed pin in the hole. A portion of Gauvry's pin (element 48) is inserted through the thumb ringlet 30. Therefore, Gauvry's pin meets the claim language.

Regarding the Applicant's argument with respect to Brenton, fully or partially rotation of the thumb ringlet does not affect the function of the stabilizer or limit the

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function of the Gauvry's scissors. Therefore, it would have been obvious to one skilled in the art to provide a stabilizer to the Gauvry's scissors.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 26, 2006

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Timothy V. Eley
Primary Examiner